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|--|---|-----------------------|
| In re Application of | : | DECISION ON |
| John A. Macoviak et al. | : | |
| Application No.: 10/031,826 | : | |
| PCT No.: PCT/US00/01485 | : | PETITION |
| Int. Filing Date: 22 January 2000 | : | |
| Priority Date: 22 January 1999 | : | |
| Attorney's Docket No.: CARDE.59410 | : | UNDER 37 CFR 1.137(b) |
| For: AORTIC CATHETER WITH FLOW DIVIDER | : | |
| AND METHODS FOR PREVENTING | : | |
| CEREBRAL EMBOLIZATION | : | |

This is in response to the petition under 37 CFR 1.137(b) filed 18 January 2002.

BACKGROUND

On 22 January 2000, applicants filed international application PCT/US00/01485, which claimed priority of an earlier U.S. application filed on 22 January 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 22 August 2000. Accordingly, the thirty month period for paying the basic national fee in the United States expired at midnight on the 22 July 2001.

On 18 January 2002, applicants filed a Transmittal Letter for entry into the national stage in the United States under 35 U.S.C. 371 along with the present petition to revive the international application because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the 30 months from the priority date. Filed with the Transmittal Letter, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an unsigned declaration of the inventors.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be filed promptly after the applicant becomes aware of the abandonment and must be accompanied by: (1) the required reply, unless previously filed, (2) the petition fee required by law for revival of an unintentionally abandoned application

(37 CFR 1.17(m)), (3) a statement that the entire delay in filing the required reply from the due date of the reply until filing of a grantable petition was unintentional and (4) a terminal disclaimer (for applications filed before 8 June 1995).

As to item (1), the petition is accompanied by full payment of the basic national fee, i.e., the required reply.

As to item (2), the petition is accompanied by the required petition fee.


As to item (3), applicants' have submitted the statement that "the entire delay in filing the required reply from the due date fore the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

As to item (4), a terminal disclaimer is not required in the present case.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application is being forwarded to the National Stage Branch of the Office of PCT Operations to continue national stage processing of the present application, including issuance of a "Notification of Missing Requirements" (Form PCT/DO/EO/905) requiring a oath or declaration in compliance with 37 CFR 1.497.



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